

REMARKS/ARGUMENTS

The Office is requiring restriction to one of the following groups:

- Group I: Drawn to a method for increasing platelets in a human (Claims 1-8);
- Group II: Drawn to a method for treating thrombocytopenia (Claim 20);
- Group III: Drawn to a method for treating arteriosclerosis (Claims 21 (in part) and 22);
- Group IV: Drawn to a method for treating myocardial infarction (Claims 21 (in part) and 23);
- Group V: Drawn to a method for treating unstable angina (Claims 21 (in part) and 24);
- Group VI: Drawn to a method for treating peripheral artery occlusive disease (Claims 21 (in part) and Claim 25).

Applicants elect, with traverse, Group I, Claims 1-8, for examination.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (MPEP §803). The burden is on the Examiner to provide reasons and/or examples to support any conclusion in regard to patentable distinction (MPEP §803).

Citing MPEP 806.05(h), the Office alleges that the invention of Claims 1-8, 16-17 and the invention of Claims 20-25 are related as product and process of use. The Office states: "In the instant case the method of use can be practiced with another materially different product such as the one shown in EP 0 339 671."

MPEP § 806.05(h) states:

A product and a process of using the product can be shown to be distinct inventions if either or both of the following can be shown:  
(A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process.

Applicants respectfully submit that the Office has not provided any evidence to support the allegation that the presently claimed processes can be practiced with a materially different product. The Office has merely argued this conclusion to be the case.

Citing MPEP §§ 806.04 and 808.01, the Office alleges that Groups I through VI are unrelated. The Office states: "In the instant case, the different methods of use inventions are unrelated because the patient population treated for each method is divergent."

Applicants respectfully submit that the Office has not provided any evidence to support the allegation that the inventions of the above-identified groups are unrelated. The Office has merely argued this conclusion to be the case.

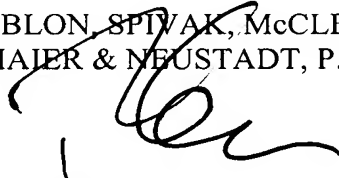
For the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction. Applicants therefore request that the requirement for restriction be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

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